IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.906 OF 2006

In

NOTICE OF MOTION NO.4409 OF 2006

In

SUIT NO.3427 OF 2006

Shri Navendra Nath Mithal : Appellant

(Orig.Defendant No.1)

V/s.

Shri Paresh Chandra Nath & Ors. : Respondents

(Orig.Plaintiff/Defendant 2 & 3)

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Mr.U.J.Makhija i/b.Mr.Denzil D'Mello for the appellant.

Mr.D.D.Madon, senior counsel, with Mr.J.B.Patel for respondent no.1.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : DECEMBER 19, 2006.

P.C.

The counsel for the appellant and the senior counsel for the respondent no.1 handed in draft Consent Terms which read thus:-

"1. The Appellant (Org. Defendant No.1) agrees to sell, assign, transfer and

convey the flat being Flat No.3 i.e. entire 3rd floor in the Building known as Gitanjali situate at Plot No.30, Off. 17th Road, Santacruz (West), Mumbai--400 064 to the Respondent No.1 (org. Plaintiff) or in his nominees together with parking space and his 1/3rd share in the land situate, lying being at 17th Road, Gazdar Scheme of City Survey, Santacruz, Taluka Andheri, Mumbai, bearing CTS No.G/397/15 admeasuring 552.70 sq. mtrs. equivalent to 662.58 sq. yds. to the Respondent No.1 (Org. Plaintiff No.1) or his nominee/s for the lum sum (sic) consideration of Rs.1,30,00,000/- to be paid as under:-

a) Rs.30,00,000/- on or before 26th December, 2006.

b) Rs.1,00,00,000/- on or before 13th February, 2007.

2. The Appellant (Org.Defendant No.1) to put the Plaintiff or his nominee/s in vacant possession of the suit flat and his 1/3rd share in the suit land as more particularly described in Exhibit ‘A’ the Plaint.

3. The Appellant to withdraw the Suit No.3446 of 2003 filed in this Hon’ble Court on before 20th December, 2006.

4. In the event of the appellant fails to withdraw the Suit No.3446 of 2003, then period for payment is extended by 6 (six) weeks from the date of withdrawal of the said suit.

5. In the event of the Respondent No.1 fails to make the said amount of Rs.1,00,00,000/- provided herein, the Appellant becomes entitled to forfeits (sic) the said a sum of Rs.30,00,000/-.

6. The Decree in terms of the Consent Terms to operate as Conveyance in favour of the Respondent No.1 or his nominee/s.

7. The Appellant undertakes to this Hon’ble Court to attend the office of the

Sub-Registrar to admit execution of these presents or execute and admit execution of document for effective transfer of the said flat and said property in favour of the Respondent No.1."

2. We are satisfied that consent terms are in the interest of the parties and can be accepted.

3. The appeal as well as the suit are disposed of in terms of the Consent Terms afore-noticed. No costs.

R.M. LODHA, J.

S.A. BOBDE, J.